



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/606,410 | 06/25/2003 | Bart Munro | 2043.097US1 | 5665 |

| | | |
|--|------|------------|
| 49845 | 7590 | 07/31/2007 |
| SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH/EBAY | | |
| P.O. BOX 2938 | | |
| MINNEAPOLIS, MN 55402 | | |

| | |
|---------------------|--|
| EXAMINER | |
| THERIAULT, STEVEN B | |

| | |
|----------|--------------|
| ART UNIT | PAPER NUMBER |
| 2179 | |

| | |
|-------------------|---------------|
| NOTIFICATION DATE | DELIVERY MODE |
| 07/31/2007 | ELECTRONIC |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

USPTO@SLWK.COM

| | | | |
|------------------------------|--|-------------------------------------|--|
| Office Action Summary | Application No. 10/606,410 | Applicant(s) MUNRO ET AL. | |
| | Examiner Steven B. Theriault | Art Unit 2179 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 May 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date <u>05/07</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is responsive to the following communications: Amendment filed 05/03/2007.
2. Claims 1 -32 are pending in the case. Claims 1, 12, 22, and 32 are the independent claims. The applicant is advised that a new examiner has been assigned to the case. This office action contains two new rejections (101 and 102(e)) and maintains the previous 102 rejections with arguments.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 12-21 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The language of the claims raise a question as to whether the claims are directed merely to an abstract idea that is not tied to a technological art, environment or machine which would result in a practical application producing a concrete, useful and tangible result to form the basis of statutory subject matter under 35 U.S.C. 101.

With regard to **claims 12-21**, the machine-readable medium thus defined in the specification includes media such as a “**modulated data signal, such as a carrier wave or other transport mechanism**” (See Para 52, lines 1-6) that renders the claims non-statutory subject matter.

The claims recite a machine-readable medium. Applicant's specification, as noted above, sets forth intrinsic evidence that the machine-readable medium is intended to include items, which one of ordinary skill in the art would have recognized as propagation, or transmission media, which is a form of energy. Therefore, consistent with the MPEP 2106, the claimed subject matter is not currently believed to be limited to that which falls within a statutory category of invention, because it is not limited to a process, machine, manufacture, or composition of matter. Instead, it includes a form of energy. Energy does not fall within a statutory category since it is clearly not a series of steps or acts to constitute a process, not a device or combination of devices to constitute a machine, not a tangible physical article or object which is some form of matter to be a product and constitute a manufacture, and not a composition of two or more substances to constitute a composition of matter.

Art Unit: 2179

To expedite a complete examination of the instant application the claims rejected under 35 U.S.C 101 (nonstatutory) above are further rejected as set forth below in anticipation of applicant amending these claims to place them within the four statutory categories of invention.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(Previous rejections starts here)

5. Claims 1 – 32 are rejected under 35 U.S.C. 102(b) as being anticipated by Friend et al. (Pub. No. 2001/0032165)

As to independent claim 1, Friend et al. teaches:

A method to facilitate a search (see e.g., Para. [0011], lines 13 – 21; i.e., facilitating a search corresponds to a search using selection criteria based on a categorical hierarchical structure) of a database (database – see e.g., para. [0011], line 13 – 16; i.e., the categorical hierarchical structure within the database corresponds to the database) utilizing multiple search criteria (see e.g., para. Fig. 10; i.e., searching or requesting for a commodity can defined by multiple selection criteria, such as “Category”, “Subcategory”, “Type”, etc.), the method including: receiving first and second search criteria from a user (see e.g., Fig. 10 and para. [0091], lines 6 – 9; i.e., the user indicates through drop-down menus the first and second search criteria, such as choosing a search criteria from “Category” drop-down menu and another search criteria from “Subcategory” drop-down menu); and presenting the user with an option selectively to include and exclude (see e.g., Fig. 10 and para. [0091], lines 6 – 9; i.e., the drop-down menu of “Category”, “Subcategory” and/or “Type” is an option presented to the user to selectively include or exclude user defined

search criteria) each of the first and second search criteria (see e.g., Fig. 10 and para. [0091]) from a search query run against the database (database – see e.g., para. [0011], line 13 – 16; i.e., the categorical hierarchical structure within the database corresponds to the database).

As to dependent claim 2, Friend et al. teaches:

The method of claim 1, which includes conducting a search of the database utilizing the search query, the search query including at least one of the first and second search criteria as included by the user (see e.g., Fig. 10 and para. [0093]; the necessary entry fields have been completed by the user, and the form is submitted for searching).

As to dependent claim 3, Friend et al. teaches:

The method of claim 1, which includes: presenting a search interface (see e.g., Fig. 10 and para. [0028]; i.e., the “Request For Commodity Quote” form is an interfaced used to receive user search criteria) to the user to receive the first and the second search criteria (see e.g., Fig. 10 and para. [0091]; i.e., the user would indicate through drop-down menus what “Category”, “Subcategory” and/or “Type” of commodity is being sought), the search interface providing the user with a limitation option to limit a scope of any search query including the first search criteria (see e.g., Fig. 10 and para. [0091] – [0092]; i.e., the user is able to limit the scope of the search query by selecting search criteria from keyboard entry fields, “Category”, “Subcategory”, and/or “Type” drop-down menus); monitoring selection of the limitation option by the user (see e.g., Fig. 10; i.e., the “Request For Commodity Quote” interface allows the user to monitor the selection of limitation defined by the user); and monitoring an indication from the user that indicates inclusion or exclusion of each of the first and second search criteria within the search query (see e.g., Fig. 10 and para. [0091]; i.e., the “Category” and “Subcategory” drop-down menus are inclusive and exclusive, wherein the inclusive and exclusive user defined search criteria of the “Category” and “Subcategory” drop-down menus are monitored through the “Request For Commodity Quote” interface).

As to dependent claim 4, Friend et al. teaches:

The method of claim 1, wherein the database forms part of a network-based commerce facility (see e.g., para. [0011]; the network-based commerce facility corresponds to an agricultural market place for electronic transactions utilizing a database for categorical hierarchical structure of categories).

As to dependent claim 5, Friend et al. teaches:

The method of claim 4, wherein the network-based commerce facility (see e.g., para. [0011]; the network-based commerce facility corresponds to an agricultural market place for electronic transactions) is a network-based auction facility (see e.g., para. [0039]; i.e., the network-based auction facility corresponds to a system that allows marketing and distribution transaction of goods between one entity and another) and the first and the second search criteria (see e.g., Fig. 10 and para. [0091]) are associated with listings of products up for auction on the auction facility (see e.g., Fig. 12 para. [0083], lines 20 – 28; i.e., after all necessary search criteria fields are inputted by the user, Fig. 12 displays the search hit for the commodities).

As to dependent claim 6, Friend et al. teaches:

The method of claim 5, wherein the network-based auction facility (see e.g., para. [0039]; i.e., the network-based auction facility corresponds to a system that allows marketing and distribution transaction of goods between one entity and another) is a web-based auction facility (see e.g., Fig. 1 and para. [0049]; i.e., the trading platform is accessed through the World Wide Web (WWW), in which the WWW trading platform corresponds to a web-based auction facility), the method including rendering to the user a web page (see e.g., Fig. 10 and para. [0043], lines 17 – 21; i.e., the system for implementing the search of particular goods is Internet based) including: a first search criteria section for receiving the first search criteria from the user; and a second search criteria section for receiving the second search criteria from the user (see e.g., Fig. 10 and para. [0091], lines 6 – 9; i.e., the user indicates through drop-down menus the first and second search criteria, such as choosing a search criteria from “Category” drop-down menu and another search criteria from “Subcategory” drop-down menu), the second search criteria being associated with one of a plurality of categories (see e.g., Fig. 10 and para. [0091]; i.e., wherein the

"Subcategory" drop-down menu is a child of the "Category" drop-down menu) in which listings are arranged (see e.g., Fig. 12; i.e., the selection of a search criteria from "Category" and "Subcategory" drop-down menu results in Fig. 12 being displayed to the user).

As to dependent claim 7, Friend et al. teaches:

The method of claim 6, wherein the second search criteria (see e.g., para. [0091], line 8; the second search criteria corresponds to the "Subcategory" drop-down menu) section provides a plurality of optional search criteria (see e.g., Microsoft Computer Dictionary 5th Edition; a drop-down menu is defined as " a menu that drops from the menu bar when requested and remains open without further action until the user closes it or chooses a menu item", therefore the "Subcategory" drop-down menu provides a plurality of optional search criteria) at least one of which is selectable by the user to define the second search criteria (see e.g., para. [0091], lines 6 – 9; i.e., the user would indicate through the "Subcategory" drop-down menu to refine the search of a commodity).

As to dependent claim 8, Friend et al teaches:

The method of claim 5, which includes: responsive to a first search request from the user (see e.g., para. [0078], lines 43 – 46; i.e., after a key word is entered into the "key word" field, the "go" button is actuated, which corresponds to the system being responsive to a first search request from the user), conducting a first search of the database (see e.g., para. [0078], lines 20 – 28; i.e., "key word" field is used to conduct a first search of the database) to locate listings based on a first search query (see e.g., para. [0083], lines 23 – 28; i.e., the key word value inputted into the "key word" field will result in a set of listings based on the key word query), wherein the first search query includes the first search criteria but not the second search criteria (simple search – see e.g., para. [0078], lines 17 – 20; i.e., "simple search" uses the first criteria, such as a key word, to obtain a listing, which will result in allowing the user to further refine the search criteria); responsive to a second search request from the user (see e.g., para. [0093], lines 1 – 8; after the user defines the preferred drop-down fields and the second criteria is sent to the database in order to display Fig. 12), conducting a second search of the database to locate listings based on

a second search query (see e.g., para. [0091], lines 6 – 9; i.e., the second search query corresponds to the user selecting the preferred value for “Subcategory” drop-down menu, which is then sent to the database in order to display Fig. 12), wherein the second search query includes both the first and the second search criteria (see e.g., Fig. 10 and para. [0091]; i.e., the second search query is a result of the first search query, in which a key word is inputted by the user, which further corresponds to the drop-down menu “Category”. The user is able to refine the search query by using drop-down menu “Subcategory”); and responsive to a third search request from the user (see e.g., Fig. 12 and para. [0109]; i.e., the third search request from the user corresponds to the “display” parameter), conducting a third search of the database to locate listings based on a third search query (see e.g., Fig. 12 and para. [0109]; i.e., the “display” parameter is a drop-down menu used to conduct a search associated with the “display” parameter value), wherein the third search query includes the second search criteria but not the first search criteria (see e.g., para. [0109]).

As to dependent claim 9, Friend et al. teaches:

The method of claim 1, wherein the first search criteria is a keyword (see e.g., para. [0078], lines 43 – 46; i.e., after a key word is entered into the “key word” field, the “go” button is actuated, which corresponds to the system being responsive to a first search request from the user) that identifies at least one category (see e.g., Fig. 10 and para. [0091]; i.e., the at least one category corresponds to the “Request For Commodity Quote” page being displayed, due to the key word search query, wherein the “Category” drop-down menu has at least one category associated with the first search criteria due to the key word initially entered) of listings included within the database (see e.g., para. [0083], lines 23 – 28; i.e., the key word value inputted into the “key word” field will result in a set of listings based on the key word query of the database), and the second search criteria is an attribute associated with a listing stored in the database (see e.g., para. [0069]; i.e., for example, the first search criteria may be a search for fruits, wherein the second search criteria corresponds to subcategories such as oranges, apples, etc. within the database).

Art Unit: 2179

As to dependent claim 10, Friend et al. teaches:

The method of claim 1, wherein the first search criteria is a keyword (see e.g., para. [0078], lines 43 – 46; i.e., after a key word is entered into the “key word” field, the “go” button is actuated, which corresponds to the system being responsive to a first search request from the user) that identifies at least one category (see e.g., Fig. 10 and para. [0091]; i.e., the at least one category corresponds to the “Request For Commodity Quote” page being displayed, due to the key word search query, wherein the “Category” drop-down menu has at least one category associated with the first search criteria due to the key word initially entered) of listings included within the database (see e.g., para. [0083], lines 23 – 28; i.e., the key word value inputted into the “key word” field will result in a set of listings based on the key word query of the database), and the second search criteria identifies at least one sub-category of the at least one category (see e.g., para. [0069]; i.e., for example, the first search criteria may be a search for fruits, wherein the second search criteria corresponds to subcategories such as oranges, apples, etc. within the database).

As to dependent claim 11, Friend et al teaches:

The method of claim 3, wherein the search interface maintains a display of each of the first and second search criteria (see e.g., Fig. 10 and para. [0028]; i.e., the “Request For Commodity Quote” form is an interfaced used to receive user search criteria, wherein “Category” and “Subcategory” drop-down menu are elements displayed on the request form), regardless of whether the first and second search criteria are each selected by the user to be included within the search query (see e.g., Fig. 10 and para [0028]; i.e., the drop-down menu “Category” and/or “Subcategory” fields are optional fields that can be defined by the user for further refining of a search).

As to independent claim 12, claim 12 differs from claim 1 only in that claim 12 is an apparatus claim using a machine-readable medium (memory 26 – see e.g., para. [0044]; i.e., memory 26 includes memories, such as RAM, ROM, and EEPROM) containing executable instruction (see e.g., para. [0044]; i.e., instructions provided as an application software routine) that when

Art Unit: 2179

executed, causes a processor (control processor 24 – see e.g., para. [0044]) to perform the steps of claim 1. Thus, claim 12 is analyzed as previously discussed with respect to claim 1 above.

As to dependent claim 13, claim 13 differs from claim 2 only in that claim 13 is an apparatus claim using a machine-readable medium (memory 26 – see e.g., para. [0044]; i.e., memory 26 includes memories, such as RAM, ROM, and EEPROM) containing executable instruction (see e.g., para. [0044]; i.e., instructions provided as an application software routine) that when executed, causes a processor (control processor 24 – see e.g., para. [0044]) to perform the steps of claim 2. Thus, claim 13 is analyzed as previously discussed with respect to claim 2 above.

As to dependent claim 14, claim 14 differs from claim 3 only in that claim 14 is an apparatus claim using a machine-readable medium (memory 26 – see e.g., para. [0044]; i.e., memory 26 includes memories, such as RAM, ROM, and EEPROM) containing executable instruction (see e.g., para. [0044]; i.e., instructions provided as an application software routine) that when executed, causes a processor (control processor 24 – see e.g., para. [0044]) to perform the steps of claim 3. Thus, claim 14 is analyzed as previously discussed with respect to claim 3 above.

As to dependent claim 15, claim 15 differs from claims 4 and 5 only in that claim 15 is an apparatus claim using a machine-readable medium (memory 26 – see e.g., para. [0044]; i.e., memory 26 includes memories, such as RAM, ROM, and EEPROM) containing executable instruction (see e.g., para. [0044]; i.e., instructions provided as an application software routine) that when executed, causes a processor (control processor 24 – see e.g., para. [0044]) to perform the steps of claims 4 and 5. Thus, claim 15 is analyzed as previously discussed with respect to claims 4 and 5 above.

As to dependent claim 16, claim 16 differs from claim 6 only in that claim 16 is an apparatus claim using a machine-readable medium (memory 26 – see e.g., para. [0044]; i.e., memory 26 includes memories, such as RAM, ROM, and EEPROM) containing executable instruction (see e.g., para. [0044]; i.e., instructions provided as an application software routine) that when executed, causes a processor (control processor 24 – see e.g., para. [0044]) to perform the steps of claim 6. Thus, claim 16 is analyzed as previously discussed with respect to claim 6 above.

As to dependent claim 17, claim 17 differs from claim 7 only in that claim 17 is an apparatus claim using a machine-readable medium (memory 26 – see e.g., para. [0044]; i.e., memory 26 includes memories, such as RAM, ROM, and EEPROM) containing executable instruction (see e.g., para. [0044]; i.e., instructions provided as an application software routine) that when executed, causes a processor (control processor 24 – see e.g., para. [0044]) to perform the steps of claim 7. Thus, claim 17 is analyzed as previously discussed with respect to claim 7 above.

As to dependent claim 18, claim 18 differs from claim 8 only in that claim 18 is an apparatus claim using a machine-readable medium (memory 26 – see e.g., para. [0044]; i.e., memory 26 includes memories, such as RAM, ROM, and EEPROM) containing executable instruction (see e.g., para. [0044]; i.e., instructions provided as an application software routine) that when executed, causes a processor (control processor 24 – see e.g., para. [0044]) to perform the steps of claim 8. Thus, claim 18 is analyzed as previously discussed with respect to claim 8 above.

As to dependent claim 19, claim 19 differs from claim 9 only in that claim 19 is an apparatus claim using a machine-readable medium (memory 26 – see e.g., para. [0044]; i.e., memory 26 includes memories, such as RAM, ROM, and EEPROM) containing executable instruction (see e.g., para. [0044]; i.e., instructions provided as an application software routine) that when executed, causes a processor (control processor 24 – see e.g., para. [0044]) to perform the steps of claim 9. Thus, claim 19 is analyzed as previously discussed with respect to claim 9 above.

As to dependent claim 20, claim 20 differs from claim 10 only in that claim 20 is an apparatus claim using a machine-readable medium (memory 26 – see e.g., para. [0044]; i.e., memory 26 includes memories, such as RAM, ROM, and EEPROM) containing executable instruction (see e.g., para. [0044]; i.e., instructions provided as an application software routine) that when executed, causes a processor (control processor 24 – see e.g., para. [0044]) to perform the steps of claim 10. Thus, claim 20 is analyzed as previously discussed with respect to claim 10 above.

As to dependent claim 21, claim 21 differs from claim 11 only in that claim 21 is an apparatus claim using a machine-readable medium (memory 26 – see e.g., para. [0044]; i.e., memory 26 includes memories, such as RAM, ROM, and EEPROM) containing executable instruction (see

e.g., para. [0044]; i.e., instructions provided as an application software routine) that when executed, causes a processor (control processor 24 – see e.g., para. [0044]) to perform the steps of claim 11. Thus, claim 21 is analyzed as previously discussed with respect to claim 11 above.

As to independent claim 22:

Claim 22 incorporates substantially similar subject matter as claimed in claim 12 above, and are respectfully rejected along the same rationale.

As to dependent claim 23:

Claim 23 incorporates substantially similar subject matter as claimed in claim 13 above, and are respectfully rejected along the same rationale.

As to dependent claim 24:

Claim 24 incorporates substantially similar subject matter as claimed in claim 14 above, and are respectfully rejected along the same rationale.

As to dependent claim 25:

Claim 25 incorporates substantially similar subject matter as claimed in claim 15 above, and are respectfully rejected along the same rationale.

As to dependent claim 26:

Claim 26 incorporates substantially similar subject matter as claimed in claim 16 above, and are respectfully rejected along the same rationale.

As to dependent claim 27:

Claim 27 incorporates substantially similar subject matter as claimed in claim 17 above, and are respectfully rejected along the same rationale.

As to dependent claim 28:

Claim 28 incorporates substantially similar subject matter as claimed in claim 18 above, and are respectfully rejected along the same rationale.

As to dependent claim 29:

Claim 29 incorporates substantially similar subject matter as claimed in claim 19 above, and are respectfully rejected along the same rationale.

Art Unit: 2179

As to dependent claim 30:

Claim 30 incorporates substantially similar subject matter as claimed in claim 20 above, and are respectfully rejected along the same rationale.

As to dependent claim 31:

Claim 31 incorporates substantially similar subject matter as claimed in claim 21 above, and are respectfully rejected along the same rationale.

As to independent claim 32, Friend et al. teaches:

Claim 32 incorporates substantially similar subject matter as claimed in claim 12 above, and are respectfully rejected along the same rationale.

(Second 102 rejection starts here)

6. Claims 1 – 32 are rejected under 35 U.S.C. 102(e) as being anticipated by Szabo et al. U.S Patent No. 7,181,438 issued Feb. 20, 2007 and filed May 30, 2000.

In regard to **Independent claim 1**, Szabo teaches a method to facilitate a search of a database utilizing multiple search criteria, the method including:

- Receiving first and second search criteria from a user (See Figure 4 and column 31, lines 28-55 and column 73, lines 18-67 and column 74, lines 1-11). Szabo teaches the user can enter a freeform set of variables to be used as criteria to be used by the search engine in searching against a database.
- Presenting the user with an option selectively to include and exclude each of the first and second search criteria from a search query run against the database (See figure 4 and column 74, lines 1-11). Szabo shows the user can build a search query where the query runs against a database where the “and “ and “or” features allow the user to include new criteria and the not feature allows the user to exclude the criteria (See also 5,966,126 as incorporated by reference column 72, liens 10-15, that teaches a process of allowing a user to enter and filter criteria in a variety of forms).

Art Unit: 2179

With respect to **dependent claim 2**, Szabo teaches the method which includes conducting a search of the database utilizing the search query, the search query including at least one of the first and second search criteria as included by the user (See column 73, lines 55-67 and column 74, lines 1-10).

With respect to **dependent claim 3**, Szabo teaches the method which includes: presenting a search interface to the user to receive the first and the second search criteria, the search interface providing the user with a limitation option to limit a scope of any search query including the first search criteria; monitoring selection of the limitation option by the user; and monitoring an indication from the user that indicates inclusion or exclusion of each of the first and second search criteria within the search query (See column 74, lines 1-10). Szabo teaches the user can enter the not value to limit the search criteria (See also column 75, lines 55-67).

With respect to **dependent claim 4**, Szabo teaches the method wherein the database forms part of a network-based commerce facility (See column 49, lines 50-67 and column 54, lines 15-36).

With respect to **dependent claim 5**, Szabo teaches the method wherein the network-based commerce facility is a network-based auction facility and the first and the second search criteria are associated with listings of products up for auction on the auction facility (See column 24, lines 25-36).

With respect to **dependent claim 6**, Szabo teaches the method wherein the network-based auction facility is a web-based auction facility, the method including rendering to the user a web page including: a first search criteria section for receiving the first search criteria from the user; and a second search criteria section for receiving the second search criteria from the user, the second search criteria being associated with one of a plurality of categories in which listings are arranged (See column 28, lines 10-47 and column 27, lines 25-67).

With respect to **dependent claim 7**, Szabo teaches the method wherein the second search criteria section provides a plurality of optional search criteria at least one of which is selectable by the user to define the second search criteria (See column 72, lines 9-57).

With respect to **dependent claim 8**, Szabo teaches the method which includes: responsive to a first search request from the user, conducting a first search of the database to locate listings based on a first search query, wherein the first search query includes the first search criteria but not the second search criteria; responsive to a second search request from the user, conducting a second search of the database to locate listings based on a second search query, wherein the second search query includes both the first and the second search criteria; and responsive to a third search request from the user, conducting a third search of the database to locate listings based on a third search query, wherein the third search query includes the second search criteria but not the first search criteria (See column 73, lines 24-67).

With respect to **dependent claim 9**, Szabo teaches the method wherein the first search criteria is a keyword that identifies at least one category of listings included within the database, and the second search criteria is an attribute associated with a listing stored in the database (See column 13, lines 30-45).

With respect to **dependent claim 10**, Szabo teaches the method wherein the first search criteria is a keyword that identifies at least one category of listings included within the database, and the second search criteria identifies at least one sub-category of the at least one category (See column 59, lines 34-55).

With respect to **dependent claim 11**, Szabo teaches the method wherein the search interface maintains a display of each of the first and second search criteria, regardless of whether the first

Art Unit: 2179

and second search criteria are each selected by the user to be included within the search query (See figure 3-4).

In regard to **Claims 12 - 21**, claims 12-21 reflect the medium comprising computer readable instructions for performing the steps of method claims 1-10, respectively, and are rejected along the same rationale.

In regard to **Claims 22-31**, claims 22-31 reflect the system comprising computer readable instructions for performing the steps of method claims 1-10, respectively, and are rejected along the same rationale.

In regard to **Independent claim 32**, Szabo teaches a system to facilitate searching of a database using multiple search criteria, the system including:

- Means to receive first and second search criteria from a user (See Figure 4 and column 31, lines 28-55 and column 73, lines 18-67 and column 74, lines 1-11). Szabo teaches the user can enter a freeform set of variables to be used as criteria to be used by the search engine in searching against a database.
- Means to present the user with an option selectively to include and exclude each of the first and second search criteria from a search query run against the database (See figure 4 and column 74, lines 1-11). Szabo shows the user can build a search query where the query runs against a database where the "and " and "or" features allow the user to include new criteria and the not feature allows the user to exclude the criteria (See also 5,966,126 as incorporated by reference column 72, lines 10-15, that teaches a process of allowing a user to enter and filter criteria in a variety of forms).

It is noted that any citation to specific pages, columns, lines, or figures in the prior art references and any interpretation of the references should not be considered to be limiting in any way. A reference is relevant for all it contains and may be relied upon for all that it would have reasonably suggested to one having ordinary skill in the art. In re *Heck*, 699 F.2d 1331, 1332-33, 216 USPQ 1038, 1039 (Fed. Cir. 1983) (quoting In re *Lemelson*, 397 F.2d 1006, 1009, 158 USPQ 275, 277 (CCPA 1968)).

Response to Arguments

7. Applicant's arguments filed 05/03/2007 have been fully considered but they are not persuasive.

Applicant's argument that the prior art of Friend does not teach the limitations of claim 1

Applicant argues that Friend does not teach all the limitations of claim 1 because the applicant argues that Friend includes all search parameters when executing a query against a database in contrast to the present application where a term can be excluded (See arguments page 10, middle and Page 11, middle).

The Examiner disagrees.

The Examiner notes that a reference is relied upon for not just the cited sections but also for all that it contains and suggests to one of ordinary skill in the art (See MPEP 2123). Further, in multiple sections of Friend the same embodiment is discussed. For example, Para 0078-0079 and 0091-0093 Friend teaches that only the fields needed are selected and transmitted during the search. The screens presented to the user are tailored based on the selections made by the user (See Para 0043 and 0054). Therefore, if the user makes a selection such as show only the offers to sell on figure 7b middle then the system will eliminate all other offers but those and therefore provides a mechanism for the user to exclude certain pieces of information. Further, the search screen as shown in figure 7a and 7b can recursively be shown to the user as they drill down on a particular item of interest, where at the first session the user can enter a broad category and then drill down by selecting the city and state. Nothing in Friend suggests that all of the parameters are used in the search, rather Friend suggests that the user makes the choice as to which parameters to include and exclude in the search query by making a selection on the search screen. The manual process of entering a keyword, which can be the first criteria, and then entering a city, which is the second criteria and then not selecting any other field would omit the other fields from the search query.

Art Unit: 2179

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven B. Theriault whose telephone number is (571) 272-5867. The examiner can normally be reached on M, W, F 10:00AM - 8:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weilun Lo can be reached on (571) 272-4847. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SBT



WEILUN LO
SUPERVISORY PATENT EXAMINER